
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

K2A, LLC, a Utah limited liability
company,

Plaintiff/Counterclaim Defendant,

vs.

MONA VIE, Inc. a Utah corporation;
MONAVIE, LLC, a Delaware limited
liability company; and DOES 1-50,

Defendants/Counterclaimants.

**PATENT CASE
SCHEDULING ORDER**

Case No.: 2:14-CV-00104-RJS-EJF

Judge Robert J. Shelby
Magistrate Judge Evelyn J. Furse

MONAVIE, LLC, a Delaware limited
liability company,

Third-Party Plaintiff,

vs.

ALEX SCHAUSS, an individual, and
AIBMR LIFE SCIENCES, INC. a
Washington corporation,

Third-Party Defendants.

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge received the Report of Parties' Planning Meeting filed by counsel. The Court schedules the following matters. The parties may not modify the times and deadlines set forth herein without the approval of the Court and on a showing of good cause pursuant to Fed. R. Civ. P. 6.

ALL DEADLINES ARE SET FOR 11:59 P.M. ON THE DATE INDICATED UNLESS EXPRESSLY STATED TO THE CONTRARY

1.	PRELIMINARY MATTERS/DISCLOSURES	DATE
a.	Plaintiff's Accused Instrumentalities disclosure due [LPR 2.1]	3/18/14
b.	Plaintiff's Rule 26(a)(1) initial disclosure due [LPR 2.2]	4/1/14
c.	Defendants' Rule 26(a)(1) initial disclosure due [LPR 2.2]	4/15/14
d.	Rule 26(f)(1) Conference held and discovery begins [LPR 1.2, 1.3]	5/12/14
e.	Third-Party Defendants' Rule 26(a)(1) initial disclosure due [LPR 2.2]	5/27/14
f.	Attorney Planning Meeting Form and Proposed Scheduling Order submitted [LPR 1.2]	5/19/14
g.	Plaintiff serves Initial Infringement Contentions	5/20/14
h.	Defendants serve Initial Non-Infringement, Unenforceability, and Invalidity Contentions [LPR 2.4, 2.6]	6/3/14
i.	Final Infringement Contentions [LPR 3.1]	10/14/14
j.	Final Unenforceability and Invalidity Contentions [LPR 3.1]	10/28/14
k.	Final Non- Infringement Contentions [LPR 3.2]	11/11/14

2.	DISCOVERY LIMITATIONS	NUMBER
a.	Maximum Number of Depositions ¹ by Plaintiff(s)	10
b.	Maximum Number of Depositions ² by Defendant(s)	10
c.	Maximum number of Depositions ³ by Third-Party Plaintiffs	10
c.	Maximum Number of Hours for Each Deposition (unless extended by agreement of parties)	7
d.	Maximum interrogatories ⁴ by any Party/Side to any Party/Side	25
e.	Maximum requests for admissions by any Party/Side to any Party/Side	Unlimited
f.	Maximum requests for production by any Party/Side to any Party/Side	Unlimited
g.	The Parties shall handle discovery of electronically stored information as follows: The production of electronically stored information shall be as set forth in Federal Rules of Civil Procedure 26 and 34.	
h.	The parties shall handle a claim of privilege or protection as trial preparation material asserted after production as follows: The parties have agreed to handle a claim of privilege or protection as trial preparation material asserted after production as set forth in Federal Rule of Civil Procedure 26(a)(5)(B) to afford the full protections of Federal rule of Evidence 502(d).	

¹ Excluding depositions of experts.

² Excluding depositions of experts.

³ Excluding depositions of experts.

⁴ An interrogatory or multiple interrogatories seeking the basis of a party's affirmative defenses, infringement contentions, or invalidity contentions counts as one interrogatory regardless of the number of affirmative defenses alleged or the number of infringed or invalid claims alleged. A party may object to the time of discovery as set forth in LRP 1.7.

		DATE
i.	Deadline to serve written discovery before claim construction [R. 34] :	11/24/14
j.	Close of fact discovery before claim construction [LPR 1.3(a)]:	12/23/14
k.	Disclosure of intent to rely on opinions of counsel and materials in support [LPR 1.3(c)]:	PCC ⁵ Day 7
l.	Deadline to file motion for additional discovery [LPR 1.3(b)]:	PCC Day 14
3.	AMENDMENT OF PLEADINGS/ADDING PARTIES⁶	DATE
a.	Last Day to File Motion to Amend Pleadings	10/15/14
b.	Last Day to File Motion to Add Parties	10/15/14
4.	CLAIM CONSTRUCTION PROCESS	DATE
a.	Parties exchange proposed claim terms and claim constructions for construction [LPR 4.1(a)]	11/25/14
b.	Reach agreement to submit no more than 10 terms for construction [LPR 4.1(b)]	12/2/14
c.	Parties file Cross-Motions for Claim Construction and Joint Appendix [LPR 4.2(a) & (b)]	1/9/15
d.	Parties file Simultaneous Responsive Claim Construction Briefs [LPR 4.2(c)]	2/6/15
e.	Joint Claim Construction Chart & Joint Status Report Due [LPR 4.2(f)]	2/13/15

⁵ PCC as used herein means Post Claim Construction

⁶ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

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|----|---|----------------------|
| f. | Tutorial for Court [LPR 4.4] | 2:30 p.m.
2/20/15 |
| g. | Parties exchange exhibits [LPR 4.3] | 2/27/15 |
| h. | Claim Construction Hearing ⁷ [LPR 4.3] | TBD |

5. EXPERT DISCOVERY

DATE

- | | | |
|----|--|------------|
| a. | Parties bearing burden of proof [LPR 5.1(b)] | PCC Day 28 |
| b. | Counter reports [LPR 5.1(c)] | PCC Day 56 |
| c. | Close of expert discovery [LPR 5.2] | PCC Day 91 |

6. DISPOSITIVE MOTIONS

DATE

- | | | |
|----|---|-------------|
| a. | Deadline to file dispositive motions required to be filed with claim construction [LPR 6.2] | 1/9/15 |
| b. | Deadline to file opposition to dispositive motions filed with claim construction [LPR 6.2] | 2/6/15 |
| c. | Deadline to file reply to dispositive motions filed with claim construction [LPR 6.2] | 2/13/15 |
| d. | Deadline for filing dispositive or potentially dispositive motions [LPR 6.1] | 2/20/15 |
| e. | Deadline for filing partial or complete motions to exclude expert testimony | PCC Day 119 |

⁷ Parties should contact the Court to set the date for the Claim Construction Hearing

7.	SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION/ OTHER PROCEEDINGS	DATE
a.	Referral to Court-Annexed Mediation:	No
b.	Referral to Court-Annexed Arbitration	No
c.	Last day to Seek Stay Pending Reexamination [LPR 3.5]	11/11/14
d.	The parties will complete Private Mediation/Arbitration by:	01/31/15
e.	Evaluate case for Settlement/ADR on	11/01/14
f.	Settlement probability:	Fair

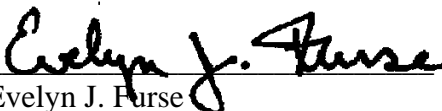
Plaintiff is directed to file a new scheduling order within 14 days of ruling on claim construction. The Court will set trial deadlines in that order or through a case management conference.

8. OTHER MATTERS

Counsel should contact chambers staff of the judge presiding in the case regarding Daubert and Claim Construction motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Signed June 5, 2014.

BY THE COURT:


 Evelyn J. Furse
 U.S. Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of May, 2014, I served the foregoing **PATENT CASE [PROPOSED] SCHEDULING ORDER** via the Court's CM/ECF electronic case filing system, addressed to the following:

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Graden P. Jackson
William B. Ingram
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/s/ D. Craig Parry